

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In the Matter of the Complaint Against)
Kansas Power & Light (Evergy)) DOCKET No. 20-EKME-397-COM
By William J. Flohrs)

**COMPLAINANT RESPONSE TO STAFF’S RESPONSE TO COMPLAINANT’S
REQUEST FOR DOCUMENTS**

On September 14th, the Kansas Corporate Commission (KCC) filed a “Staff’s Redacted Response to Complainant’s Request for Documents” in the above case. In the report, Staff provided several questions that were asked by the Staff of KCC, and the responses provided by Evergy. The Complainant was never notified of these communications and was not asked to provide answers to Staff for the same questions. This shows that a bias exists by KCC in favor of Evergy. Complainant would like to review the Staff filing.

1. Staff stated that, “*Staff does not have a copy of the transcript of the voicemail. Evergy responded to the voicemail via e-mail (attached).*” However, Staff does not provide the question(s) that were asked of Evergy and did not request an MP3 file of the recording from Evergy.
 - a. Conclusion: Staff should provide a transcript of questions that were asked, and a copy of the voicemail from Evergy.
2. Staff asked in Question 1 for an aerial photo. Evergy provided a Google maps rendering with someone’s interpretation of the property lines, tree placement and ROW.
 - a. Conclusion: Complainant has hired a survey company for draw a map with the property lines, ROW’s and tree locations. The Complainant will pay for this and may or may not provide a copy to KCC and Evergy. This survey should be available in 6-8

weeks. Staff should request their own map from the Johnson County Register of Deeds with the information they need, not depend on Evergy to do their work for them and trust their work to be accurate.

2. Staff asked in Question 2 for before and after pictures of the tree trimming that was performed by a sub-contractor for Evergy. In Staff's filing of May 7, 2020, they already had these pictures in Exhibit 3 of 10 pages. Staff chose to ignore their own filing. Evergy stated that they did not have before pictures and did not answer if they had after pictures.

a. Conclusion: Staff should have taken their own pictures and compared them to the pictures they already had in their own filing. This is another example of the favorable bias that Evergy has with KCC.

3. Staff asked in Question 3 for trimming distances that Evergy trims vegetation away from 161kV transmission lines. Evergy stated that trimming was "performed on a case by case basis." They go on to state, "next time Evergy decides (emphasis added)", "once every four years", and "at least 20 feet below" were their policies. These answers are in direct conflict with what Evergy did in September 2019. In the Complainant response of May 25, 2020 evidence of what Evergy actually did in this case was provided in Point 1, Exhibit 3 (10 pages), Point 2, Exhibit 2,4,5,6 and Staff Exhibit TBD-2.

a. Conclusion: Exhibit 3 (10 pages) clearly documents exactly what happened. Tree branches that were nowhere near the 161kV lines were cut off at the tree trunk! This is destruction of personal property that has no chance of ever coming into contact with the Evergy power line. The picture clearly shows Evergy cut limbs back to the trunk of the tree. A picture also shows that the tree was nowhere close to the Evergy power line. Yet another picture shows the destruction to the yard. When Jeremie Bryant of

Thorne Tree was asked if he was going to repair the damage to the yard that he caused, he said, “Fuck you. You can kiss my ass.” (then he turned and walked away and slapped the back of his pants). This kind of abusive behavior from Evergy on personal property is repugnant, offensive, and disrespectful. This kind of attitude and behavior is consistent with the experiences that the Claimant has encountered with Evergy.

Evergy has been asked on several occasions to provide a copy of their Transmission Vegetation Management Plan for 161 kV lines (TVMP). If you go to the KCP&L website (this information has recently been removed) to try and determine what their TVMP, the only thing you can find is seen in Exhibit 2 (4 pages). This information references the following:

1. “to comply with regulations from the North American Electric Reliability Council,”
2. “consistent with good arboricultural practices.”
3. “Trimmers try to preserve as much of the tree’s beauty as possible.”

It is difficult to determine from the documents in Exhibit 2 what Evergy will do as far as Transmission Vegetation Management Plan for 161 kV lines (TVMP) is concerned. Docket 10-KCPE-809-COM (Staff Exhibit TBD-2) shows a diagram of what Evergy interprets as “Conductor Clearance”. The diagram over exaggerates one of the cornerstones of Evergy’s aggressive tree trimming program, Line Sag. Line Sag is a myth and the KCC has gone on record stating the same position.

The door hanger that was left on our door on March 6, 2020 also has yet another diagram explaining Evergy’s tree trimming program (Exhibit 4). There are several

conflicting and confusing guidelines, yet when Evergy is asked for specific vegetation management guidelines, it produced a 1-page Power Point slide (Exhibit 5) that conflicts with all the above documents.

Yet another document from Evergy (Exhibit 6) gives an entirely different definition.

Evergy will not, or cannot, provide a current Transmission Vegetation Management Plan for 161 kV lines (TVMP) as outlined in the document with specific distances between lines and vegetation, therefore it is not in compliance with Docket No. 02-GIME-365-GIE.

4. Staff asked in Question 4 for criteria used to determine if a tree is trimmed or removed. Evergy answered that “various criteria” were used, but Staff did not ask what those criteria were.

a. Conclusion: Staff did not follow-up and ask for the referenced criteria. This is another example of the bias that Evergy enjoys with the KCC.

5. Staff asked in Question 6 when the transmission line was constructed. Evergy stated it was originally constructed in the 1960’s. This is partially correct. The building of the original transmission line is unknown. Evergy has been asked for documentation that it started building the transmission line in compliance with the timeline stated in the easement. However, Evergy has never provided any documentation, and the City of Overland Park does not have a record of Evergy ever securing a building permit to construct the line. The original transmission line was replaced in the last 10 years by a new transmission line. Representatives from Evergy that meet with residents of Nottingham Forest prior to construction of the new transmission line represented: 1) that the poles would be much higher, 2) that the transmission lines would also be

much higher, 3) that this would lead to less aggressive trimming by Evergy. The first 2 items were true, the third item is not.

a. Conclusion: Staff did not press Evergy for an answer to Question 6. Evergy enjoys a robust bias by the KCC, so Staff did not ever get a full answer to Question 6 from Evergy.

6. In Question 7, Staff asked about the notification process to alert customers of upcoming tree trimming. In the May 7th KCC filing, Exhibit 1 and 4 provide evidence of Evergy's notification process. Staff ignored this data.

a. Conclusion: Staff should have reviewed Exhibit 1 and 4 of their May 5th filing to ask better follow-up questions and answers from Evergy. To further compound this issue, on March 6, 2020 Evergy left a door hanger (May 7th filing, Exhibit 4) indicating that they were going to remove a tree that they had recently trimmed! A representative from Evergy has placed a blue painted "x" on a tree that is **not in the ROW** and had been trimmed a few months earlier. This is yet another example that Evergy does whatever they want, when ever they want without regard to their published policies.

7. In Question 8, Staff asked about the conduct of Thorne Tree. Evergy does not contract with Thorne Tree. Evergy contracts with CSI, who has hired Thorne Tree to conduct vegetation management. On Monday, September 23, 2019, Thorne Tree was at my property, and cut the entire back of our tree off (May 25th filing, Exhibit 3; 10 pages). They made the tree unsafe and a hazard. The foreman, Jeremie Bryant of Thorne Tree, was assisted by Bryan Baker, Brett Williams, Ryan Demato, and Dawson Pope. Mr. Bryant said that they all were certified arborists. When I asked him to produce the certifications, he told me to, "**fuck off.**" I asked him for the guidelines that KCP&L uses for vegetation management for their 161 kV lines, and he said, "**I don't have to give**

you squat.” I asked him to give me the name of his superior, and he referred me to Brandan Spicer, of ECI. I called them and asked for the documentation on tree trimming, and he said, “I don’t have any, and if I did, I wouldn’t give them to you because I don’t have too.” As I understand it, ECI is Environmental Consultants, Inc. a utility vegetation management company from Stoughton Wisconsin. According to their website, they advocate for aggressive vegetation management in order to reduce their clients cost without regard to the safety and esthetics of the work performed. ECI does do not have a Registered Agent in Kansas, so it is difficult to know how to communicate with them.

a. Conclusion: Staff did not investigate the conduct of the Evergy contractors. It should have. Staff basically let the conduct of Evergy contractors go without any type of investigation, and Evergy did not indicate that any investigation was done by them. This abusive behavior, by default, is being condoned by KCC.

8. In Question 9, Staff asks for the Vegetation Management Manual. Evergy did not provide anything to Staff, and Staff did not press Evergy to provide the document requested. In fact, Evergy states that no such document exists. Over the course of these proceedings Evergy has provided 4 conflicting documents on Vegetation Management.

a. Conclusion: Staff fails to reconcile the conflicting information provided to Staff. Staff should ask Evergy to provide a clear and concise document that outlines their programs and procedures for VM of a 161v line. Staff has failed to do that.

9. In Question 10, staff asks Evergy to provide Evergy’s vegetation management policy and a copy of the procedures referenced by NERC. Evergy now claims that these documents are “CONFIDENTAIL”.

a. Conclusion: These documents are in no way confidential and should be provided to the Claimant as Staff requested. There is no basis for Evergy's claim. These are documents that a regulated utility should have readily available to anyone upon request. Staff should make these documents available in a public filing. To not make these documents public, further shows the bias that Evergy enjoys with the Staff at KCC.

Claimant Requests:

1. It is obvious that Evergy enjoys a significant bias regarding Evergy. Staff should recuse themselves from this matter and the matter should be referred to the full commission for a hearing.
2. Complainant asks that KCC Staff provide an MP3 file of the voicemail left with Evergy on or about August 6, 2020 along with the questions Staff asked on the voicemail.
3. Final disposition of this matter should be delayed until Claimant secures a survey of the property.
4. Evergy should provide a copy of the current Transmission Vegetation Management Plan for 161 kV lines (TVMP) with specific distances between lines and vegetation. Evergy is not in compliance with Docket No. 02-GIME-365-GIE.
5. KCC should make the documents marked CONFIDENTIAL a separate filing and open for public review.
6. Evergy should not be allowed to perform anymore tree trimming activities until they provide guidelines that have been approved by the KCC, they replace CSI and Thorn

Tree with new subcontractors, and Evergy should not be allowed to perform any further tree trimming at 10633 W 123rd Street.

7. Evergy should produce documentation of when the subject transmission line was first constructed. It should be reviewed to see if it meets the language in the easement.
8. Complainant should be notified of all correspondence, verbal and written, that occurs between Evergy and KCC in this matter going forward, and needs to provide any and all communication between KCC, Evergy and anyone else regarding this matter.

Respectfully Submitted,

_____s/s_____ William J. Flohrs

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of September 2020, the foregoing “**COMPLAINANT RESPONSE TO STAFF’s RESPONSE TO COMPLAINANT’s REQUEST FOR DOCUMENTS**” was sent via email to the parties listed below:

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